United Nations S/PV.8295

Security Council

Seventy-third year

Provisional

8295th meeting
Wednesday, 27 June 2018, 10 a.m.
New York

President:	Mr. Nebenzia	(Russian Federation)
Members:	Bolivia (Plurinational State of)	Mr. Inchauste Jordán
	China	Mr. Li Yongsheng
	Côte d'Ivoire	Mr. Dah
	Equatorial Guinea	Mr. Esono Mbengono
	Ethiopia	Mr. Alemu
	France	Mr. Delattre
	Kazakhstan	Mr. Temenov
	Kuwait	Mr. Alahmad
	Netherlands	Mr. Van Oosterom
	Peru	Mr. Tenya
	Poland	Ms. Wronecka
	Sweden	Mr. Skoog
	United Kingdom of Great Britain and Northern Ireland	Ms. Pierce
	United States of America	Mr. Simonoff

Agenda

International Residual Mechanism for Criminal Tribunals

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The meeting was called to order at 10.05 a.m.

Adoption of the agenda

The agenda was adopted.

International Residual Mechanism for Criminal Tribunals

The President (*spoke in Russian*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of Serbia to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

Members of the Council have before them document S/2018/628, which contains the text of a draft resolution submitted by Peru.

The Council is ready to proceed to the vote on the draft resolution before it. I shall put the draft resolution to the vote now.

A vote was taken by show of hands.

In favour:
Bolivia (Plurinational State of), China, Côte d'Ivoire, Equatorial Guinea, Ethiopia, France, Kazakhstan, Kuwait, Netherlands, Peru, Poland, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America

Against:
None

Abstaining:
Russian Federation

The President (*spoke in Russian*): The draft resolution received 14 votes in favour, none against and 1 abstention. The draft resolution has been adopted as resolution 2422 (2018).

I shall now give the floor to those members of the Council who wish to make statements after the voting.

Mr. Tenya (Peru) (*spoke in Spanish*): I would like to take this opportunity to recall that international criminal law is vital to enabling access to justice, fighting impunity for atrocity crimes, deterring potential perpetrators and ultimately safeguarding human rights and promoting sustainable peace and the maintenance of international peace and security.

I want to stress the importance of maintaining the unity of the Security Council in its support for the International Residual Mechanism for Criminal Tribunals, which is mandated to fight impunity and contribute to reconciliation in countries where atrocity crimes have been committed. Compliance with that mandate depends to a great extent on States' living up to their responsibility to cooperate with the enforcement of sentences, implement warrants and respond to requests for assistance by the Residual Mechanism. In that regard, the Council can and must play its role as guarantor.

As Chair of the Working Group on International Tribunals, Peru would like to thank all the delegations that assisted and participated constructively during the consultations leading to the adoption of resolution 2422 (2018), which reflects the conclusions of the second review of the work of the International Residual Mechanism for Criminal Tribunals, renews its mandate and appoints its Prosecutor. We are also grateful for the steadfast support that we have received from the Office of Legal Affairs and the secretariat of the Security Council, and offer our support and best wishes to the high officials appointed to the Residual Mechanism as they discharge their weighty responsibilities.

The President (*spoke in Russian*): I shall now make a statement in my capacity as the representative of the Russian Federation.

Our delegation abstained in the voting on resolution 2422 (2018), as it did in the voting on resolution 2269 (2016), on the same issue. At that time we voiced our grave concerns (see S/PV.7636) about the reappointment of the same officials from the unfortunately notorious International Tribunal for the Former Yugoslavia (ICTY). Today our fears about those staffing decisions have been justified. The latest two-year cycle of the work of the International Residual Mechanism for Criminal Tribunals is drawing to an end, and its situation is far from perfect. There are problems with its approaches to justice and its internal administration and staffing policies. Our delegation expressed its opinion about those issues in the Security Council's meeting on 6 June (see S/PV.8278), and we will not repeat them now.

However, I would like to draw the Council's attention to one very serious issue concerning the right to life and the provision of timely and appropriate medical help to defendants. We repeatedly urged the

ICTY to conduct a serious inquiry into Ratko Mladić's treatment and, if it was beyond the prison doctors' capabilities, to temporarily release him for treatment in Russia with our comprehensive guarantees. Unfortunately, the Tribunal refused time and again to grant the motion of the accused's lawyers, and Serbia's guarantees were also rejected. The Mechanism rejected the most recent application for the General's temporary release on 8 June.

When we consider the materials in the Mladić case, which can be openly accessed on the Mechanism's website, some curious information emerges. Based on a document from the Registrar of the Mechanism concerning a report by independent medical experts, one can conclude that Mr. Mladić fears the doctors of the United Nations detention unit and does not wish to follow their prescribed course of treatment. At the same time, Mladić's lawyers are not allowed to be present during his visits with the prison doctors, despite the accused's wishes. The excuse they have invented is medical ethics.

What sort of medical ethics — based on trust between doctor and patient — are we talking about if, as the lawyers testify, the Mechanism's medical service has been hiding part of Mr. Mladić's electrocardiogram under stickers, effectively distorting his data? But even the medical information that the administration has been unable to conceal has enabled the defence to conclude that in the past three months the accused's health has got considerably worse. He is not getting adequate treatment, and the United Nations detention unit authorities are doing everything they can to protect themselves and justify their incompetence. This raises the question of whether the information that the judges are being given about the accused's health is similarly redacted.

The fight between Mr. Mladić's lawyers and the United Nations detention unit over his health has been going on for a number of months now. The Appeals Chamber and the President have denied every petition by the defence time and again. Things have gone so far that there is a petition to disqualify judges for reasons of bias.

In that connection, I would like to ask the Mechanism's leadership whether it realizes where this scandalous situation could lead.

I now resume my functions as President of the Security Council.

I give the floor to the representative of Serbia.

Ms. Ivanović (Serbia): I thank you, Mr. President, for the opportunity to address the Council today on behalf of the Republic of Serbia.

At the outset, let me point out that Serbia fulfils all its obligations regarding cooperation with the International Residual Mechanism for Criminal Tribunals. Serbia has proved its commitment to fighting impunity time and again. My country continues to be committed to prosecuting war crimes, regardless of the nationality of the perpetrators of grievous crimes against humanity.

I am here today for humanitarian reasons. We are concerned about the health of some of those who have been accused or convicted. I would specifically like to take this opportunity to draw the Council's attention to inadequate medical care in the case of Mr. Ratko Mladić. We feel compelled to do so because the Mechanism has rejected a request to release him temporarily for medical treatment despite the guarantees of the Government of the Republic of Serbia. As our Minister of Justice pointed out during the Security Council meeting on 6 June (see S/PV.8278), after months of delay the prison doctors eventually prescribed therapy for Mr. Mladić identical to that proposed by Serbian doctors much earlier.

Numerous official requests by members of Mr. Mladić's family and his defence team to gain access to relevant information about his health have been denied. They appear to have encountered a wall of silence, false claims and a lack of cooperation. The request for a medical team from Serbia to visit Mr. Mladić in prison, submitted in October of last year in accordance with rule 31 of the rules governing detention, was denied after a month of delay without any explanation or even a suggestion that the visit could take place at another time.

Our concerns are not unfounded. I would like to remind the Council that 12 Serbian nationals have died either during their trial before the International Tribunal for the Former Yugoslavia or in prison during their sentences. It is difficult to believe that such a large number could have died in different prison units of The Hague Tribunal or on temporary release granted at a late

stage of illness under an official explanation that they have had fair treatment. Human rights are universal, and we believe that providing adequate health care is a question of basic human rights.

In conclusion, I would like to point out that Serbia has no outstanding issues with the Mechanism and that our cooperation with it is not hindered in any way.

The meeting rose at 10.15 a.m.